

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

October 30, 2002

ORDER

BANGOR GAS COMPANY, LLC  
Proposed Cost of Gas Adjustment  
(\$ 4703)

Docket No. 2002-481

BANGOR GAS COMPANY, LLC  
Proposed Cost of Gas Adjustment  
(Proposed Mid-Course Procedures)

Docket No. 2002-083

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

We approve Bangor Gas Company LLC's (Bangor Gas or Company) Cost of Gas Adjustment for the winter 2002-2003 period as updated in its October 16, 2002 filing. We also approve the Company's proposed streamlined mid-course correction procedures subject to one modification in the proposed notice procedures.

**II. PROCEDURAL HISTORY**

On August 15, 2002, Bangor Gas filed its proposed cost of gas adjustment (CGA) for the winter 2002-2003 period. The Commission issued a Notice of Proceeding to interveners in prior CGA cases and by publication in newspapers of general circulation in Bangor Gas's service area. The Office of the Public Advocate filed a timely petition to intervene, which was subsequently granted by the Hearing Examiner.

A preliminary hearing and a technical conference were held on September 25, 2002, at which the Hearing Examiner addressed interventions and set a procedural schedule. In addition, the Company reported the results of its winter gas supplier bidding process, and the Staff and OPA explored the issues raised by this filing.<sup>1</sup> On October 16, 2002, the Company filed an updated filing that reflected the October 11, 2002 settlement prices for natural gas futures on the NYMEX market.

On July 16, 2002, in its proposed mid-course adjustment to the 2002 summer period cost of gas rate, BGC proposed to establish in its tariff a regular, streamlined

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<sup>1</sup> On October 9, 2002, Bangor Gas filed for approval a proposed amendment to its current gas supply contract with Sempra to extend the contract term to allow Sempra to provide gas supply during the winter 2002-2003 period beginning November 1, 2002. The filing was assigned Docket No. 2002-611. Review of the proposed affiliate transaction and supplier selection analysis will be completed in that docket.

procedure for mid-season rate corrections. On September 27, 2002, in accordance with the Commission's Order in *Docket No. 2002-83, Bangor Gas Company, L.L.C., Proposed Cost of Gas Factor*, Bangor Gas filed amendments to its tariff to establish its proposed mid-course correction procedures. The Company, Advisory Staff and the OPA discussed the Company's proposed language for mid-course correction procedures and tariff revision at the September 25, 2002 technical conference. We discuss this separately in Section IV.B below.

### **III. DESCRIPTION OF BANGOR GAS'S PROPOSED TARIFF CHANGES**

#### **A. PROPOSED COST OF GAS RATE**

In this filing, Bangor Gas seeks to establish an estimated cost of gas rate for service in the upcoming winter period. Bangor Gas is a start-up gas distribution utility whose gas supply requirements may change daily as customers are added. Bangor Gas does not plan to manage the gas procurement function in-house.

Bangor Gas plans to contract with a supplier to provide gas at market prices throughout the winter period as those needs arise, similar to the contracts entered into since it began providing gas service to customers in late 2000. Bangor Gas asserts that the current natural gas futures prices are the best indicators of market prices and, thus, its expected gas costs for the upcoming winter period.

In its testimony, Bangor Gas outlines its view of the components of a "normal" Cost of Gas Adjustment, such as storage, injection or withdrawal capacity charges, balancing fees or charges, and carrying costs on gas in storage, consistent with its filed tariff. However, the rate proposed by Bangor Gas here does not reflect these components because it does not directly incur such costs under its current practice of securing its total requirements from an outside supplier.

Bangor Gas's proposed 2002-2003 winter CGA rate, calculated using a methodology intended to produce a proxy for market price, would increase the energy charge for all classes of customers from the current tariff rate of \$0.320 per therm to \$0.460 per therm. The new rate is based on projected costs of natural gas in the region using an average of futures prices for the October 11, 2002 settlement prices, adjusted for additional costs to transport gas supplies to New England.

There is a prior cost of gas balance resulting from a winter 2001-2002 over-collection to carry forward into the winter 2002-2003 rate. This results in past gas cost adjustment of \$-0.005 per therm to Bangor Gas's customers.

#### **B. MID-COURSE CORRECTION TARIFF CHANGES**

In previous cases, both Bangor Gas and the Advisory Staff have discussed the accumulation of both under- and over-collection of gas costs and ways to

ensure that those balances do not become excessive. Bangor Gas was instructed to propose methods to ensure this outcome during the processing of its 2002 Summer Cost of Gas filing. See Docket No. 2002-83, Order (April 30, 2002). In early July 2002, Bangor Gas filed a proposed mid-course correction to take effect that summer period as well as a proposal to ensure that future mid-course corrections could be handled in an expedient manner. By Order dated July 23, 2002, the Commission approved the mid-course correction and directed further review of the Company's proposal to be completed by November 1, 2002.

Bangor Gas's proposal would require it to file either a mid-course correction or a statement as to why such a filing is not necessary by the seventh day of the third month following the effective date of the last cost of gas adjustment, to take effect on the first day of the following month after the filing, unless the Commission determines further investigation is warranted.

#### **IV. ANALYSIS**

##### **A. Proposed Cost of Gas Rate Change**

Bangor Gas proposes that we set the CGA rate based on the weighted natural gas futures prices as settled on October 11, 2002 plus an amount representing the cost of transporting the supplies to BGC's system. Bangor Gas states that this price is a proxy for the forecast commodity price that would be delivered into Bangor Gas's system and is consistent with the terms proposed by its potential suppliers.

We have previously concluded that the use of an index price in the gas procurement contract and a fixed price in setting the CGA produces reasonable results that send an appropriate price signal to the customers in Bangor Gas's territory.

Bangor Gas has sought index price-based bid proposals. Its market futures-based CGA calculation should, therefore, provide an appropriate proxy for any contract it executes in response to its current bid solicitation. Moreover, the Company's use of the most recent market prices in setting the CGA rate should be an appropriate price signal to customers given that the CGA rate is fixed for the season.

We also reviewed Bangor Gas's calculation of its Past Gas Cost Adjustment to ensure that it was calculated properly. The charge includes a portion for over-collected gas costs increased by accrued carrying charges on that over-collection. We conclude that Bangor Gas's calculation was reasonable and that the inclusion of these costs in its rates is appropriate.

##### **B. Proposed Mid-Course Rate Correction Tariff Language**

Bangor Gas seeks to change its tariff to streamline procedures and help ensure that cost of gas under- and over- collections do not accumulate on its books to

excessive levels while reducing the period of time between making the mid-course correction filings and the effective date of that correction. We must determine whether Bangor Gas's proposal is reasonable and in compliance with the applicable statutes.

Under- and over-collections of BGC's gas costs occur mainly due to changes in the price of the gas commodity and changes in forecasted demand. To ensure that Bangor Gas's customers receive proper price signals, it is important that the effects of market changes are implemented when warranted. At the September 25, 2002, technical conference, the Staff addressed the possibility of including a fixed percentage to trigger when a filing would be made. Bangor Gas stated that due to its size and the volatility of its demand an appropriate percentage of variation would be difficult to define. The Company believes that at this point in its development, it should be allowed to use its judgment to determine when a filing is necessary. Based upon Bangor Gas's comments, the Staff was persuaded that initially a set percentage is not necessary and that Bangor Gas should be allowed discretion to determine when a mid-course correction is necessary.

Bangor Gas's proposal to file more regular mid-course corrections should work to reduce the past gas cost balances, giving customers more accurate price signals. In addition, the streamlined procedures will facilitate any such changes by reducing the administrative burden on both the Company and the Commission.

We have reviewed Bangor Gas's proposal and compared its tariff language to the statutes to ensure compliance. Title 35-A, §4703(6) of the Maine Revised Statutes states that a utility may not bill customers for a cost of gas adjustment charge that has not been approved by the Commission. It also requires the Commission to issue a public notice of the application and the opportunity to request a hearing within 7 days after the application is filed. This section also states that no gas utility may apply for changes in its cost of gas adjustment rate until a period of 90 days has elapsed from its last application.

Bangor Gas proposes that its CGA changes be subject to Commission approval and not be filed until 90 days after its last application, and therefore it is in compliance with those requirements. The timing proposed by Bangor Gas, however, does not leave ample time to meet the notice requirements of the statute for the mid-course rate change if we use the typical notice procedure. To remedy this, Bangor Gas's proposes to send its mid-course correction application to the service list in the cost of gas docket that is being amended. In addition to this, the procedure would have the Commission, when it issues its notice in BGC's initial seasonal cost of gas cases, routinely include a statement that Bangor Gas may file mid-course corrections in that docket, in accordance with its tariff, providing notice of a potential mid-course rate change in that manner.

We are not satisfied that the proposed notice provisions comport with the spirit of section 4703(6).<sup>2</sup> We draw a distinction between notifying customers that the Company might file for a rate change in the future, as compared to notifying customers that the Company is filing for approval of a specific rate increase. Customers may be more likely to choose to become involved when they learn of the specific amount of the increase when it is proposed, particularly if it is high, rather than simply the possibility of an increase at some time in the future.

Consequently, we conclude that, when the Company files for a mid-course rate change, it should give customers notice of their proposed change that is at least equivalent to the notice that the Commission gives upon the initial filing of a seasonal cost of gas change. Typically, we provide notice in newspapers of general circulation in the utility's service area and to the service list for prior cost of gas proceedings, including information on the size of the proposed increase (in terms of average residential bill impact) and steps consumers may take to request involvement in the Commission proceeding. Alternatively, the Company may provide direct notice to customers if it so desires. Finally, we would waive this requirement if warranted, such as, perhaps, in instances where the change in rate was minimal or where adequate public attention has already been provided.

With this modification, we would approve the Company's mid-course correction procedures.

## **V. CONCLUSION**

Use of a marketer to secure the necessary gas supplies seems reasonable given the early stage of Bangor Gas Company's service and the inherent difficulty in forecasting customer consumption without the benefit of historical usage information. Bangor Gas's use of futures prices plus a transportation adder from an index that is consistent with the index on which its gas supply contract is based is reasonable and produces an estimate of energy costs for the upcoming winter period which is likely to be consistent with its actual gas costs. The inclusion of past over-collections in its current rates is reasonable and consistent both with Commission practices and rules as well as Bangor Gas's rate plan.

With the modification outlined above, we find Bangor Gas's proposal for tariffed, streamlined mid-course correction procedures reasonable and will help ensure that its customers receive more accurate price signals in a reasonable time frame. Therefore, we approve these changes.

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<sup>2</sup> We do not rely here on the provisions of 35-A M.R.S.A. §4706 to support approval of the modified cost of gas filing procedures, although that avenue might be available to us, because we believe that under the current regulatory processes in place for Bangor Gas, public notice of some kind is warranted.

Accordingly, we

O R D E R

1. That Bangor Gas's proposed revised CGA rate of \$0.460 per therm shall take effect for gas consumed on or after November 1, 2002;
2. That Bangor Gas's proposed revised Past Gas Cost Adjustment rate of \$-0.005 per therm shall take effect for gas consumed on or after November 1, 2002;
3. That Bangor Gas's Ninth Revised Sheet Nos. 48 and 49 constituting its Cost of Gas Adjustment for the period November 1, 2002 through April 30, 2003, are approved; and
4. That Bangor Gas's First Revision, Sheet No. 30 and Original Sheet No. 30.1 proposed for effect November 1, 2002 are not approved. The Company may file modified rate schedules in compliance with this Order for review and approval.

Dated at Augusta, Maine, this 30<sup>th</sup> day of October, 2002.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
                                                 Nugent  
                                                 Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.